

Town of Bar Harbor

Proposed Regulations for Bonus Dwelling Units (BDU)

1. Purpose

These regulations are meant to assist in increasing the housing supply by allowing and encouraging the most efficient use of the existing housing by capitalizing on existing infrastructure such as roads, water, sewer, etc.

2. Consistency with Comprehensive Plan

Goal #6 – To encourage and promote decent and affordable housing opportunities and slow off-island migration.

3. Definition**DWELLING UNIT, BONUS (BDU)**

~~A single self-contained dwelling unit which is part of, attached to, or located on the premises of a principal single-family dwelling unit. This dwelling unit consists of one or more rooms with separate kitchen and bathroom facilities.~~

A second dwelling unit created on the same lot where only one single-family dwelling unit exist, either within the same building as the single-family dwelling unit or in a detached building. Bonus dwelling units shall comply with the standards in 125-69 AA.

4. Districts

- BDU would be by CEO permit and allowed in the following districts:

<ul style="list-style-type: none"> § 125-18 Village Historic ??? § 125-20 Village Residential § 125-21 Downtown Village I § 125-21.1 Downtown Village II § 125-23 Emery District § 125-27 Hulls Cove Rural § 125-33 McFarland Hill Residential § 125-34 McFarland Hill Rural 	<ul style="list-style-type: none"> § 125-41 Schooner Head ??? § 125-46 Town Hill Rural § 125-47 Shoreland GD I only with water and sewer??? § 125-49 Shoreland GD II (HC) only with water and sewer??? § 125-49.1 Shoreland GD III only with water and sewer ???
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- Delete ADU from all districts.

5. Requirements/Standards for BDU

These additional standards, would be placed in §125-69 Standards for Particular Uses, Structures or Activities as §125-69 AA. – Bonus Dwelling Units.

(Note that Y is reserved for VR and Z for Solar)

- A. BDUs would be required to meet all requirements of the district(s) where they are proposed to be located but would be exempt from the area per family.
- B. A maximum of one BDU per lot that is occupied by a single-family dwelling unit.
- C. A BDU would not be able to be registered as short-term rental or a vacation rental.
- D. BDUs in the following districts would be subject to DRB: ???
 - § 125-18 Village Historic
 - § 125-21 Downtown Village I
 - § 125-21.1 Downtown Village II
 - § 125-47 Shoreland GD I
 - § 125-49 Shoreland GD II (HC)
- E. The sale of the BDU separately from the principal single-family dwelling unit would be prohibited. For this to happen, we would amend § 125-56 F as follows:

A single parcel of land, the legal description or dimensions of which are recorded on a document or map on file at the Hancock County Registry of Deeds, which lawfully existed immediately prior to the enactment of this chapter or any subsequent amendment and which, as a result of the enactment of this chapter or any amendment, does not meet the lot size, minimum area per family, road frontage, floor area ratio, lot coverage, shore frontage, or lot width requirements, or all seven, in the district in which it is located, and which does not adjoin another vacant parcel in common ownership, may be built upon without the need for a variance, but only subject to the following:

- F. If two or more principal uses or structures exist on a single lot of record, they may not be sold separately each may be sold on a separate lot provided that the State Minimum Lot Size Law (12 M.R.S.A. §§ 4807 A through 4807 D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

DRAFT PB WORKSHOP

May 19, 2021

Districts	DRB	Sewer MLS/MAPE sf	Septic MLS/MAPE sf	Lot Coverage % with sewers/ without sewers	ADU Allow- ed	Types of DU allowed	Bonus Dwelling Unit (as proposed) Based on PB members' responses				
§ 125-18 Village Historic	Y	40,000/ 40,000	40,000/ 40,000	25%/NA	N	SF1, SF2, MF1	N	Y	N	Y	Y
§ 125-20 Village Residential	N	10,000/ 10,000	40,000/ 20,000	50%/25%	N	SF1, SF2, MF1, MF2	Y	Y	Y	Y	Y
§ 125-21 Downtown Village I	Y	1,000/ 750	1,000/ 750	100% exclusive of setbacks	N	SF1, SF2, MF1, MF2	Y	Y	Y	Y	Y
§ 125-21.1 Downtown Village II	Y	1,000/ 750	1,000/ 750	<ul style="list-style-type: none"> • 90% for bldgs up to 30' in height • 80% for bldgs over 30' and up to 35' in height • 70% for bldgs over 35' and up to 45' in height 	N	SF1, SF2, MF1, MF2	Y	Y	Y	Y	Y
§ 125-23 Emery District	N	40,000/ 40,000	40,000/ 40,000	10%	Y	SF1, SF2,	Y	Y	Y	Y	Y
§ 125-27 Hulls Cove Rural	N	40,000/ 10,000	40,000/ 40,000	25%	Y	SF1, SF2	Y	Y	Y	Y	Y
§ 125-33 McFarland Hill Residential	N	80,000/ 80,000	80,000/ 80,000	10%	Y	SF1, SF2	Y	Y	Y	Y	Y
§ 125-34 McFarland Hill Rural	N	80,000/80, 000	80,000/ 80,000	25%	Y	SF1, SF2	Y	Y	Y	Y	Y
§ 125-41 Schooner Head	N	217,800/ 217,800	217,800/ 217,800	5%	Y	SF1	Y	Y	Y	Y	Y
§ 125-46 Town Hill Rural	N	40,000/ 40,000	40,000/ 40,000	25%	Y	SF1, SF2	Y	Y	Y	Y	Y
§ 125-47 Shoreland GD I	Y	30,000/ 30,000	30,000/ 30,000	50%	Y	SF1, SF2, MF1, MF2	Y	Y	Y	Y	Y
§ 125-48 Shoreland Limited-Res	N	30,000/ 30,000	30,000/ 30,000	20%	Y	SF1	Y	Y	Y	Y	Y

DRAFT PB WORKSHOP

May 19, 2021

Districts	DRB	Sewer MLS/MAPE sf	Septic MLS/MAPE sf	Lot Coverage % with sewers/ without sewers	ADU Allowed	Types of DU allowed	Bonus Dwelling Unit (as proposed) Based on PB members' responses				
							Y	Y	Y	Y	Y
§ 125-49 Shoreland GD II (HC)	Y	30,000/ 30,000	30,000/ 30,000	70% next to ocean 20% elsewhere	Y	SF1, SF2, MF1, M2	Y	Y	Y	Y	Y
§ 125-49.1 Shoreland GD III	N	30,000/ 30,000	40,000 40,000	25%	N	SF1, SF2, MF1, M2	N	Y if SF	N	Y	?
§ 125-50 Stream Protection	N	40,000/ 40,000	40,000/ 40,000	20%	N	SF1, SF2	N	N ?	N	N	N
§ 125-51 Marine Research	N	20,000/ 20,000	40,000/ 20,000	25% 20% max bldg cov	N	SF1, SF2	N	N ?	N	N	N

Draft Order

Of the Bar Harbor Town Council

For the November 2, 2021 Town Meeting

It is hereby ordered that the following article be placed on the annual town meeting warrant with voting thereon to be held by Australian ballot.

Warrant Article

Article XX LAND USE ORDINANCE AMENDMENT – Solar Photovoltaic System – Shall an ordinance, dated XXXXXXXXXX, XX, 2021, and entitled “An amendment to create and define a new use titled ‘solar photovoltaic system, principal use’ and associated definitions; and to allow the use in the Emery District, Halls Cove Business, Halls Cove Residential Corridor, Halls Cove Rural, Indian Point Residential, Indian Point Rural, Industrial, Ireson Hill Corridor, Ireson Hill Residential, McFarland Hill Residential, McFarland Hill Rural, Otter Creek, Salisbury Cove Corridor, Salisbury Cove Rural, Scientific Research for Eleemosynary Purposes, Town Hill Business, Town Hill Residential, and Town Hill Rural districts; and to provide specific standards for the use;” be enacted?

Explanation

These regulations are intended to allow for the construction and operation of larger-scale solar photovoltaic systems by establishing use-specific standards to ensure, to the greatest extent possible, that projects are sited and designed to maintain aesthetic quality, visual character, and compatibility with surrounding uses. These regulations do not apply to solar photovoltaic systems that would be accessory to a permitted use or structure.

More specifically, it adds four definitions: Array; Solar Photovoltaic System, Principal Use (SPVS-PU); Solar Photovoltaic System, Accessory Use; and Photovoltaic. It proposes to allow Solar Photovoltaic System, Principal Use (SPVS-PU), in the following 19 districts: Emery District, Halls Cove Business, Halls Cove Residential Corridor, Halls Cove Rural, Indian Point Residential, Indian Point Rural, Industrial, Ireson Hill Corridor, Ireson Hill Residential, McFarland Hill Residential, McFarland Hill Rural, Otter Creek, Salisbury Cove Corridor, Salisbury Cove Rural, Scientific Research

for Eleemosynary Purposes, Town Hill Business, Town Hill Residential Corridor, Town Hill Residential, and Town Hill Rural.

Solar Photovoltaic System, Principal Use (SPVS-PU), would be reviewed by the Planning Board as a Major Site Plan; would be required to meet all requirements of the district(s) where they are proposed to be allowed with the exception of Lot Coverage; would be required to submit all applicable information per Submission Requirements §125-66 and meet all applicable General Review Standards per §125-67, as well as the following additional requirements: Safety, Fencing and Screening, Visual Impacts, Financial Capacity, Emergency and Operation/Maintenance Plan, Decommissioning Plan, Abandonment, and Financial Assurance of Performance.

Solar Photovoltaic System

An amendment to Articles III, V, and XII

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

Article III. Land Use Activities and Standards

§ 125-23 Emery District.

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial

Commercial boatyard

Commercial stable

Kennel, boarding

Municipal school

Noncommercial kennel

Noncommercial stable

Road construction

Solar Photovoltaic System, Principal Use (SPVS-PU)

Transient accommodations (TA-1)

Wireless communications facility

§ 125-24 Hulls Cove Business.

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Bank

Commercial boatyard

Commercial fish pier

Commercial stable

Employee living quarters

Ferry terminal

Hospital

Light manufacturing/assembly plant

Marina

Multifamily dwelling II

Municipal school

Parking lot

Recreational boating facility

Research facility

Research production facility

Road construction

Shared accommodations (SA-2)

Shared accommodations (SA-3)

Solar Photovoltaic System, Principal Use (SPVS-PU)

Transient accommodations (TA-1)

Transient accommodations (TA-2)

Wireless communications facility

§ 125-26 Hulls Cove Residential Corridor.

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Campground

Cemetery

Multifamily dwelling II

Place of worship

Road construction

Solar Photovoltaic System, Principal Use (SPVS-PU)

Transient accommodations (TA-1)

Transient accommodations (TA-3)

Transient accommodations (TA-4)

Wireless communications facility

§ 125-27 Hulls Cove Rural.

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial

Campground

Cemetery

Mineral extraction

Mineral extraction and processing

Mobile home park

Municipal school

Place of worship

Retirement community

Road construction

Solar Photovoltaic System, Principal Use (SPVS-PU)

Transient accommodations (TA-1)
Wireless communications facility

§ 125-28 Indian Point Residential.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Cemetery
Road construction
Solar Photovoltaic System, Principal Use (SPVS-PU)
Wireless communications facility

§ 125-29 Indian Point Rural.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial
Cemetery
Road construction
Solar Photovoltaic System, Principal Use (SPVS-PU)
Wireless communications facility

§ 125-30 Industrial.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Automobile repair garage
Bulk oil and fuel tank storage
Commercial boatyard
Food processing and freezing (excluding slaughterhouse)
Food processing and freezing
Light manufacturing/assembly plant
Mineral extraction
Mineral extraction and processing
Newspaper or printing facility
Other processing and manufacturing facility
Research facility

Research production facility
Retirement community
Road construction
Solar Photovoltaic System, Principal Use (SPVS-PU)
Terminal yard and trucking facility
Transportation facility
Upholstery shop
Uses or structures accessory to permitted uses or structures
Warehousing or storage facility
Wholesale business establishment
Wireless communications facility

§ 125-31 Ireson Hill Corridor.

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Bank
Campground
Employee living quarters
Mineral extraction
Mineral extraction and processing
Multifamily dwelling II
Municipal school
Parking lot
Place of worship
Road construction

Solar Photovoltaic System, Principal Use (SPVS-PU)

Transient accommodations (TA-1)
Transient accommodations (TA-2)
Transient accommodations (TA-3)
Transient accommodations (TA-4)
Transient accommodations (TA-5)
Transient accommodations (TA-6)
Transient accommodations (TA-7)
Transient accommodations (TA-8)
Warehousing or storage facility
Wholesale business establishment
Wireless communications facility

§ 125-32 Ireson Hill Residential.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Cemetery

Eleemosynary, educational or scientific institution

Municipal school

Place of worship

Road construction

Solar Photovoltaic System, Principal Use (SPVS-PU)

Transient accommodations (TA-1)

Wireless communications facility

§ 125-33 McFarland Hill Residential.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Cemetery

Commercial stable

Municipal school

Place of worship

Road construction

Solar Photovoltaic System, Principal Use (SPVS-PU)

Transient accommodations (TA-1)

Veterinary clinic

Wireless communications facility

§ 125-34 McFarland Hill Rural.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial

Cemetery

Commercial stable

Eleemosynary, educational or scientific institution

Municipal school

Place of worship

Road construction

Solar Photovoltaic System, Principal Use (SPVS-PU)

Veterinary clinic

Wireless communications facility

§ 125-35 Otter Creek.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Cemetery

Commercial stable

Municipal facility and grounds

Place of worship

Road construction

Solar Photovoltaic System, Principal Use (SPVS-PU)

Veterinary clinic

Transient accommodations (TA-1)

Wireless communications facility

§ 125-37 Salisbury Cove Corridor.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Cemetery

Kennel, boarding

Multifamily dwelling II

Place of worship

Road construction

Solar Photovoltaic System, Principal Use (SPVS-PU)

Transient accommodations (TA-1)

Transient accommodations (TA-2)

Transient accommodations (TA-3)

Transient accommodations (TA-4)

Transient accommodations (TA-5)

Transient accommodations (TA-6)

Wireless communications facility

§ 125-39 Salisbury Cove Rural.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial

Campground

Cemetery

Commercial boatyard

Commercial stable

Place of worship

Road construction

Solar Photovoltaic System, Principal Use (SPVS-PU)

Veterinary clinic

Wireless communications facility

§ 125-42 Scientific Research for Eleemosynary Purposes.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Parking deck

Parking lot

Road construction

Solar Photovoltaic System, Principal Use (SPVS-PU)

Wireless communications facility

§ 125-43 Town Hill Business.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Automobile repair garage

Automobile sales lot

Automobile service station

Bank

Campground

Commercial boatyard

Eleemosynary, educational or scientific institution

Employee living quarters

Food processing and freezing (excluding slaughterhouse)

Food processing and freezing

Hospital

Light manufacturing/assembly plant

Mobile home park

Multifamily dwelling II

Municipal school

Newspaper or printing facility

Parking garage and parking lot

Research facility

Research production facility

Road construction

Solar Photovoltaic System, Principal Use (SPVS-PU)

Terminal yard and trucking facility

Transient accommodations (TA-1)

Transient accommodations (TA-2)

Transient accommodations (TA-3)

Transient accommodations (TA-4)

Transient accommodations (TA-5)

Transient accommodations (TA-6)

Transient accommodations (TA-7)

Transient accommodations (TA-8)

Upholstery shop

Warehousing or storage facility

Wholesale business establishment

Wireless communications facility

§ 125-44 Town Hill Residential Corridor.

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial

Campground

Cemetery

Multifamily dwelling II

Municipal school

Municipal facility and grounds

Place of worship

Road construction

Solar Photovoltaic System, Principal Use (SPVS-PU)

Transient accommodations (TA-1)

Transient accommodations (TA-3)
Transient accommodations (TA-4)
Wireless communications facility

§ 125-45 Town Hill Residential.

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial
Campground
Cemetery
Commercial stable
Employee living quarters
Marina
Mobile home park
Municipal facility and grounds
Municipal school
Place of worship
Road construction

Solar Photovoltaic System, Principal Use (SPVS-PU)

Transient accommodations (TA-1)
Wireless communications facility

§ 125-46 Town Hill Rural.

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial
Cemetery
Commercial boatyard
Commercial stable
Eleemosynary, educational or scientific institution
Kennel, boarding
Mineral extraction
Mineral extraction and processing
Municipal school
Place of worship
Road construction

Solar Photovoltaic System, Principal Use (SPVS-PU)

Transient accommodations (TA-1)

Wireless communications facility

Article V Site Plan Review

§ 125-67 General review standards.

The Planning Board, before granting site plan approval, must find that the proposed plan will comply with each of the following standards. In all instances the burden of proof shall be upon the applicant.

B. Lot standards.

(8) Exceptions to lot coverage.

- (a) In the required front setback, the footprint of driveways and sidewalks required for access to a site from a public or private road shall not constitute lot coverage, except in the Shoreland Districts. In the application of this standard, any footprint area of the portion of driveways larger than the minimum width required under § 125-67E(26) shall constitute lot coverage; and any footprint area of a sidewalk that exceeds four feet in width or is wider than that required under § 125-67G(3)(a) shall constitute lot coverage.
- (b) In the required setbacks, essential services shall not constitute lot coverage.
- (c) Solar photovoltaic system, principal use (SPVS-PU), located over live ground cover with sufficient space between the panels and above the ground to allow sunlight for vegetation to grow shall be exempt from lot coverage calculations due to sharing of the space. All other SPVS-PU related amenities such as, but not limited to, roads, etc. are not exempt from lot coverage calculations. Live ground cover includes, but is not limited to, native perennial vegetation and foraging habitat beneficial to gamebirds, songbirds, and pollinators.

§ 125-69 Standards for particular uses, structures or activities.

Notwithstanding and in addition to any other provision of this chapter, before granting site plan approval for any land use activity described in this section, the Planning Board must find that the proposed plan will comply with such of the following standards as are applicable:

Z. Solar photovoltaic system, principal use (SPVS-PU).

The purpose of these regulations are primarily intended to allow for the construction and operation of larger-scale solar photovoltaic systems, as principal use (SPVS-PU), that produce energy for use on-site and/or off-site by establishing use-specific standards to ensure, to the greatest extent possible, that the project is sited and designed to maintain aesthetic quality, visual character, and compatibility with surrounding uses. These regulations do not apply to solar photovoltaic systems accessory to a permitted use or structure.

- (1) Safety.** The SPVS-PU shall be installed in compliance with the NFPA 70 National Electric Code and the NFPA 1 Uniform Fire Code as adopted by the town.
- (2) Fencing and Screening.** Perimeter fencing, installed around the boundary of the SPVS-PU shall be elevated by a minimum of 5 inches off the ground to allow for passage of small animals. The fence shall contain appropriate warning signage posted in such a way that it is clearly visible on the site. Any portion of the fence visible from a road or abutter's property shall be screened.
- (3) Visual Impacts.** The SPVS-PU shall be sited on a lot in a manner that reduces the visual impacts of the installation to the greatest extent that is practical. The Planning Board may impose design-related conditions where findings of negative impacts on sensitive resources, as listed below, are made.

The applicant shall prepare a visual impact assessment to include a narrative and demonstration detailing the extent to which the proposed SPVS-PU would be visible from any designated scenic resource(s); Acadia National Park; archaeological and historic resources (specifically those listed in the National Register of Historic Places, or eligible for inclusion); and the distance to the proposed SPVS-PU from the designated resources and noted viewpoints.

Information to be submitted shall include:

- (a) A photomontage, field mockup, or other technique(s) to identify the potential visual impacts, at design capacity, of the SPVS-PU on sensitive resources and adjacent properties.**
- (b) Photos showing existing site vegetation, structures, and land uses of the subject lot and abutting properties; views of the proposed SPVS-PU from sensitive resources and adjacent properties; and showing the topography of the subject lot and abutting properties.**
- (c) Landscaping, screening, and buffering plan showing location of proposed plantings, screening, and buffering and existing vegetation to be retained.**
- (d) Demonstration that the siting of the SPVS-PU has reduced the visual impact to the extent practical by methods that may include, but are not limited to, the following:**

- [1] Avoiding impacts to sensitive visual resources, as listed above;
- [2] Installing the SPVS-PU in such a way as to use natural topography to obscure the project;
- [3] Using material and colors that blend with the background; and
- [4] Retaining or planting vegetation to obscure views of the SPVS-PU.

(4) Financial capacity. Proof of financial capacity to build, maintain, and remove/decommission the SPVS-PU.

(5) Emergency and Operation/Maintenance Plans

The owner or operator shall provide:

- (a) A plan including but not limited to a project summary, electrical schematic, and site plan to the town's Police Chief and Fire Chief. All means of shutting down the SPVS-PU shall be clearly marked.
- (b) A 24-hour emergency contact name and phone number to respond to public safety inquiries throughout the life of the SPVS-PU.
- (c) A general maintenance schedule for the SPVS-PU including the replacement/removal of all major components during the lifespan of the facility.
- (d) A list of cleaning chemicals and solvents, which shall be low in volatile organic compounds, to be used during the operation or maintenance of the SPVS-PU (including biodegradable products).
- (e) An Integrated Vegetation Management (herein IVM) Plan that promotes desirable, stable, low-growing plant communities such as, but not limited to, native perennial vegetation and foraging habitat beneficial to gamebirds, songbirds, and pollinators through the use of appropriate, environmentally sound, and cost-effective methods. The goal is to balance safe, reliable, cost-effective vegetation management to attain stable desired plant communities while minimizing risk to human health and the environment. The plan shall address the following:

- [1] The type of existing and proposed plant communities.
- [2] Describe the use of control mechanisms to manage unwanted vegetation and promote desirable plant communities short- and long-term, such as, but not limited to: biological control (grazing sheep, goats, and other animals); mechanical and manual control (mowing, cutting, grubbing, hand-pulling, and tilling); cultural control (introduction of specific plants or mulches); and chemical control (application of herbicides).
- [3] Quinquennial reevaluation of the IVM plan to determine efficacy, and make adjustments necessary to improve the plan. The findings and proposed amendments to the IVM plan shall be submitted to the Code Enforcement Officer who shall review the plan per the above stated goal, request changes if needed, and accept the plan.

(6) Decommissioning Plan

In the event the SPVS-PU ceases to operate, or where construction begins but is not completed, the owner shall be responsible to restore the site according to the decommissioning plan approved by the Planning Board. The owner shall submit a decommissioning plan that ensures that the site will be restored to a useful life without delay.

The decommissioning plan shall include, but is not limited to, the following:

- (a) Provision for the notification to the Code Enforcement Officer by certified mail of the proposed date of the discontinued operations of the SPVS-PU and of the removal schedule.
- (b) Provision for the removal of the SPVS-PU no more than 365 days after the date of the discontinued operations of the facility.
- (c) Provision for the removal of aboveground and underground equipment and of structures and foundations to least three feet below grade. Underground equipment, structures and foundations that are at least three feet below grade and do not constitute a hazard or interfere with agricultural or other resource-based land use do not need to be removed.
- (d) Provision for the removal of graveled areas, access roads, fences, gates, etc., unless leaving it in place benefits an agricultural or other resource-based land use.
- (e) Provision for the restoration of the surface grade and soil after removal of aboveground structures and equipment.
- (f) Provision for the revegetation of restored soil area with, to the maximum extent possible, native pollinator-friendly seed mixtures and plant species suitable to the area.
- (g) Provisions for the protection of public health and safety, as well as for protection of the environment and natural resources during the site restoration.
- (h) Provisions for the disposal of all solid and hazardous waste in accordance with state and federal waste disposal regulations.
- (i) A schedule for completion of site restoration work.
- (j) An estimated cost to implement the decommissioning plan at the estimated date of decommissioning. The cost is to be determined by an independent registered professional engineer in the State of Maine, to be mutually acceptable by the owner and the Town. The engineer will be paid by the owner but hired by the Town. The cost to implement to the decommissioning plan shall be acceptable to the Town's Finance Director.
- (k) Provision of financial assurance of performance.

(7) Abandonment.

- (a) Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances to the Code Enforcement Officer, a SPVS-PU shall be considered abandoned when it fails to operate for more than 365 days.
- (b) If the owner of the SPVS-PU fails to remove the installation within 365 days of abandonment or the proposed date of decommission, the Town of Bar Harbor retains the right to use all available means to cause an abandoned or hazardous SPVS-PU to be decommissioned.

(8) Financial Assurance of Performance

- (a) At the time of approval, the owner of the SPVS-PU shall submit to the town a bond or other financial surety outlined in Article IX, Performance Guarantees, of the Land Use Ordinance, to be approved by the Town's Finance Director, for 110% of the estimated decommissioning of the facility based on the average life span of the SPVS-PU.
- (b) The bond or other financial surety shall be in effect for as long as the SPVS-PU facility is in place. The performance guarantee shall be used by the town to remove/decommission the abandoned SPVS-PU (or the use of which has ceased) and associated abandoned structures only if the owner has not done so within the required 365-day period. Financial assurance provisions must be noted in the Planning Board Decision and must be transferred with the development if it is sold.

Article XII Construction and Definitions

§ 125-109 Definitions.

The following terms shall have the following meanings:

Array:

Any number of electrically connected photovoltaic (PV) modules providing a single electrical output.

Photovoltaic (PV):

A semiconductor-based device that converts light directly into electricity.

Solar Photovoltaic System, Principal Use (SPVS-PU):

A solar collection system consisting of one or more ground-mounted solar photovoltaic cells, panels or arrays, and solar-related equipment that rely upon solar radiation as an energy source for collection, inversion, storage and/or distribution of solar energy for electricity generation. The ground-mounted solar collection system shall have a total surface area (all panels and/or arrays) greater than 20,000 square feet in size.

Solar Photovoltaic System, Accessory Use:

A solar collection system accessory to a permitted use or structure, consisting of one or more roof-mounted and/or ground-mounted solar photovoltaic cells, panels or arrays, and solar-related equipment that rely upon solar radiation as an energy source for collection, inversion, storage and/or distribution of solar energy for electricity generation. The ground-mounted solar collection system shall not exceed a total surface area (all panels and/or arrays) of 20,000 square feet in size.

Town of Bar Harbor
Proposed Regulations for Solar Photovoltaic (PV) Systems

1. Purpose

These regulations are primarily intended to allow for the construction and operation of larger-scale solar photovoltaic (PV) systems that produce energy for use on-site and/or off-site by establishing use-specific standards to ensure, to the greatest extent possible, that the project is sited and designed to maintain aesthetic quality, visual character, and compatibility with surrounding uses. These regulations do not apply to solar PV systems accessory to a permitted use or structure.

2. Definitions

Array:

Any number of electrically connected photovoltaic (PV) modules providing a single electrical output.

Solar Photovoltaic (PV) System, Principal Use:

A solar collection system consisting of one or more ground-mounted solar photovoltaic cells, panels or arrays, and solar-related equipment that rely upon solar radiation as an energy source for collection, inversion, storage and/or distribution of solar energy for electricity generation. The ground-mounted solar collection system shall have a total surface area (all panels and/or arrays) greater than 20,000 square feet in size.

Solar Photovoltaic (PV) System, Accessory Use:

A solar collection system accessory to a permitted use or structure, consisting of one or more roof-mounted and/or ground-mounted solar photovoltaic cells, panels or arrays, and solar-related equipment that rely upon solar radiation as an energy source for collection, inversion, storage and/or distribution of solar energy for electricity generation. The ground-mounted solar collection system shall not exceed a total surface area (all panels and/or arrays) of 20,000 square feet in size.

Photovoltaic (PV):

A semiconductor-based device that converts light directly into electricity.

3. Districts

The table below presents the districts where “solar photovoltaic (PV) systems,” principal use, are proposed to be allowed. As many lots are bisected by two, and sometimes more, districts, we are proposing to allow solar PV systems in 19 districts outside the village area. For reference purposes, the table shows existing maximum lot coverage for each of the subject districts.

	Allowed	Existing Max Lot Coverage
§ 125-17 Bar Harbor Gateway	N	
§ 125-18 Village Historic	N	
§ 125-19 Mount Desert Street Corridor District	N	
§ 125-20 Village Residential	N	
§ 125-21 Downtown Village I	N	
§ 125-21.1 Downtown Village II	N	
§ 125-21.2 Downtown Village Transitional	N	
§ 125-22 Downtown Residential	N	
§ 125-23 Emery District	Y	10%
§ 125-24 Hulls Cove Business	Y	75%
§ 125-26 Hulls Cove Residential Corridor	Y	25%
§ 125-27 Hulls Cove Rural	Y	25%
§ 125-28 Indian Point Residential	Y	25%
§ 125-29 Indian Point Rural	Y	25%
§ 125-30 Industrial	Y	50%
§ 125-31 Ireson Hill Corridor	Y	25%
§ 125-32 Ireson Hill Residential	Y	25%
§ 125-33 McFarland Hill Residential	Y	10%
§ 125-34 McFarland Hill Rural	Y	25%
§ 125-35 Otter Creek	Y	10%
§ 125-36 Resource Protection	N	
§ 125-37 Salisbury Cove Corridor	Y	25%
§ 125-38 Salisbury Cove Residential	N	
§ 125-39 Salisbury Cove Rural	Y	25%
§ 125-40 Salisbury Cove Village	N	
§ 125-41 Schooner Head	N	
§ 125-42 Scientific Research for Eleemosynary Purposes	Y	50%
§ 125-43 Town Hill Business	Y	50%
§ 125-44 Town Hill Residential Corridor	Y	15%
§ 125-45 Town Hill Residential	Y	15%
§ 125-46 Town Hill Rural	Y	25%
§ 125-47 Shoreland General Development I	N	
§ 125-48 Shoreland Limited Residential	N	
§ 125-49 Shoreland General Development II (Hulls Cove)	N	
§ 125-49.1 Shoreland General Development III	N	
§ 125-49.2 Shoreland General Development IV	N	
§ 125-49.3 Shoreland Maritime Activities District	N	
§ 125-50 Stream Protection	N	
§ 125-51 Marine Research	N	
§ 125-51.1 Educational Institution	N	

4. Requirements for solar PV systems, principal use

- A. Would be reviewed by the Planning Board as Major Site Plan.
- B. Would be required to meet all requirements of the district(s) where they are proposed to be allowed with the exception of **Lot Coverage**.
- C. Would be required to submit all applicable information per Submission Requirements §125-66 and meet all applicable General Review Standards per §125-67, as well as the following additional requirements: Safety, Fencing and Screening, Visual Impacts, Financial Capacity, Emergency and Operation/Maintenance Plan, Decommissioning Plan, Abandonment, and Financial Assurance of Performance.
 1. **Lot Coverage.** Solar PV systems located over live ground cover, with sufficient space between the panels and above the ground to allow sunlight for vegetation to grow, shall be exempt from lot coverage calculations due to sharing of the space. ***Other related amenities such as, but not limited to, roads, etc. are not exempt from lot coverage calculations.*** Live ground cover includes, but is not limited to, native perennial vegetation and foraging habitat beneficial to gamebirds, songbirds, and pollinators.
 2. **Safety.** Solar PV Systems shall be installed in compliance with the NFPA 70 National Electric Code and the NFPA 1 Uniform Fire Code as adopted by the town.
 3. **Fencing and Screening.** Perimeter fencing shall be installed around the boundary of the solar PV system. The fence shall be elevated by a minimum of 5 inches off the ground to allow for passage of small

EXEMPTION FROM LOT COVERAGE RATIONALE

Providing exemption from lot coverage is suggested by guidance documents developed by entities such as the American Planning Association and Maine Audubon.

As shown in the picture below, solar panels create a minimal amount of impervious surface.

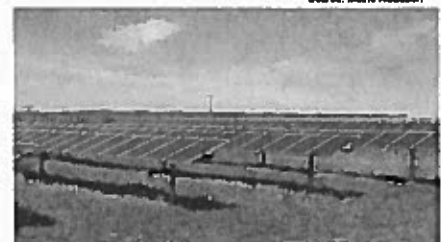
A community based solar farm* requires approximately 5 acres of land to produce 1-megawatt (MW) of electrical power and 25 acres to produce 5 MW. One (1) MW can supply, on average, enough electrical power for approximately 150 homes.

Requiring that Solar Photovoltaic (PV) System (principal use) meet lot coverage requirements would greatly reduce available locations and feasibility in Bar Harbor.

Lot coverage standards for the 19 subject districts range from 10% to 50%, with the exception of one district where it is at 75%. Both the lot coverage mode and the median is 25%. For example, if 25% lot coverage were applied without exemption, a 1 MW solar farm would require about 20 acres and a 5 MW farm would require 100 acres.

The proposed lot coverage exemption would only apply to the actual Solar Photovoltaic (PV) System (principal use) and not any associated structures, roads or other amenities that create impervious surfaces.

Source: Maine Audubon



*Community based solar farm is one that produces between 1 to 5 MW

animals. The fence shall contain appropriate warning signage posted in such a way that it is clearly visible on the site. Any portion of the fence visible from a road or abutter's property shall be screened.

4. **Visual Impacts.** A solar PV system shall be sited on a lot in a manner that reduces the visual impacts of the installation to the greatest extent that is practical. The Planning Board may impose design-related conditions where findings of negative impacts on sensitive resources, as listed below, are made.

The applicant shall prepare a visual impact assessment to include a narrative and demonstration detailing the extent to which the proposed solar PV system would be visible from any designated scenic resource(s); Acadia National Park; archaeological and historic resources (specifically those listed in the National Register of Historic Places, or eligible for inclusion); and the distance to the proposed solar PV system from the designated resources and noted viewpoints.

Information to be submitted shall include:

- (a) A photomontage, field mockup, or other technique(s) to identify the potential visual impacts, at design capacity, of the proposed facility on sensitive resources and adjacent properties.
 - (b) Photos showing existing site vegetation, structures, and land uses of the subject lot and abutting properties; views of the proposed solar PV system from sensitive resources and adjacent properties; and showing the topography of the subject lot and abutting properties.
 - (c) Landscaping, screening, and buffering plan showing location of proposed plantings, screening, and buffering and existing vegetation to be retained.
 - (d) Demonstration that the siting of the solar PV system has reduced the visual impact to the extent practical by methods that may include, but are not limited to, the following:
 - i. Avoiding impacts to sensitive visual resources, as listed above;
 - ii. Installing the solar PV system in such a way as to use natural topography to obscure the project;
 - iii. Using material and colors that blend with the background; and
 - iv. Retaining or planting vegetation to obscure views of the solar PV system.
5. **Financial capacity.** Proof of financial capacity to build, maintain, and remove/decommission the solar PV system facility.
6. **Emergency and Operation/Maintenance Plan**

The owner or operator shall provide:

- (a) A plan including but not limited to a project summary, electrical schematic, and site plan to the town's Police Chief and Fire Chief. All means of shutting down the solar PV system shall be clearly marked.
- (b) A 24-hour emergency contact name and phone number to respond to public safety inquiries throughout the life of the solar PV system.
- (c) A general maintenance schedule for the solar PV system including the replacement/removal of all major components during the lifespan of the facility.
- (d) A list of cleaning chemicals and solvents, which shall be low in volatile organic compounds, to be used during the operation or maintenance of the facility (including biodegradable products).
- (e) An Integrated Vegetation Management (IVM) Plan that promotes desirable, stable, low-growing plant communities such as, but not limited to, native perennial vegetation and foraging habitat beneficial to gamebirds, songbirds, and pollinators through the use of appropriate, environmentally sound, and cost-effective methods. The goal is to balance safe, reliable, cost-effective vegetation management to attain stable desired plant communities while minimizing risk to human health and the environment. The plan shall address the following:
 - 1) The type of existing and proposed plant communities.
 - 2) Describe the use of control mechanisms to manage unwanted vegetation and promote desirable plant communities short- and long-term, such as, but not limited to: biological control (grazing sheep, goats, and other animals); mechanical and manual control (mowing, cutting, grubbing, hand-pulling, and tilling); cultural control (introduction of specific plants or mulches); and chemical control (application of herbicides).
 - 3) Quinquennial reevaluation of the IVM plan to determine efficacy, and make adjustments necessary to improve the plan. The findings and proposed amendments to the IVM plan shall be submitted to the Code Enforcement Officer who shall review the plan per the above stated goal, request changes if needed, and accept the plan.

7. Decommissioning Plan

In the event a solar PV system ceases to operate, or where construction begins but is not completed, the owner shall be responsible to restore the site according to the decommissioning plan approved by the Planning Board. The owner shall submit a decommissioning plan that ensures that the site will be restored to a useful life without delay.

The decommissioning plan shall include, but is not limited to, the following:

- (a) Provision for the notification to the Code Enforcement Officer by certified

mail of the proposed date of the discontinued operations of the solar energy system facility and of the removal schedule.

- (b) Provision for the removal of the solar PV system no more than 365 days after the date of the discontinued operations of the facility.
- (c) Provision for the removal of aboveground and underground equipment and of structures and foundations to least three feet below grade. Underground equipment, structures and foundations that are at least three feet below grade and do not constitute a hazard or interfere with agricultural or other resource-based land use do not need to be removed.
- (d) Provision for the removal of graveled areas, access roads, fences, gates, etc., unless leaving it in place benefits an agricultural or other resource-based land use.
- (e) Provision for the restoration of the surface grade and soil after removal of aboveground structures and equipment.
- (f) Provision for the revegetation of restored soil area with, to the maximum extent possible, native pollinator-friendly seed mixtures and plant species suitable to the area.
- (g) Provisions for the protection of public health and safety, as well as for protection of the environment and natural resources during the site restoration.
- (h) Provisions for the disposal of all solid and hazardous waste in accordance with state and federal waste disposal regulations.
- (i) A schedule for completion of site restoration work.
- (j) An estimated cost to implement the decommissioning plan at the estimated date of decommissioning. The cost is to be determined by an independent registered professional engineer in the State of Maine, to be mutually acceptable by the owner and the Town. The engineer will be paid by the owner but hired by the Town. The cost to implement to the decommissioning plan shall be acceptable to the Town's Finance Director.
- (k) Provision of financial assurance of performance.

8. Abandonment.

- (a) Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances to the Code Enforcement Officer, a solar PV system shall be considered abandoned when it fails to operate for more than 365 days.
- (b) If the owner of the solar PV system fails to remove the installation within 365 days of abandonment or the proposed date of decommission, the Town of Bar Harbor retains the right to use all available means to cause an abandoned or hazardous solar PV system to be decommissioned.

9. Financial Assurance of Performance

- (a) At the time of approval, the owner of the solar PV system shall submit to the town a bond or other financial surety outlined in Article IX, Performance Guarantees, of the Land Use Ordinance, to be approved by the Town's Finance Director, for 110% of the estimated decommissioning of the facility based on the average life span of the solar PV system.
- (b) The bond or other financial surety shall be in effect for as long as the solar PV system facility is in place. The performance guarantee shall be used by the town to remove/decommission the abandoned solar PV system (or the use of which has ceased) and associated abandoned structures only if the owner has not done so within the required 365-day period. Financial assurance provisions must be noted in the Planning Board Decision and must be transferred with the development if it is sold.

**Related existing definitions in Ch. 125 to assist in providing a more
comprehensive understanding of the proposed amendments**

BUFFERS

Fences, landscaping, berms and mounds used to minimize any adverse impacts or nuisance of the site on adjacent areas.

DESIGNATED SCENIC RESOURCE

That specific location, view or corridor, which is identified as a scenic resource in the Town's Comprehensive Plan (Figure II.A.1). Such scenic resources shall consist of:

- A. A three-dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, a lake, or a bay, or a group of objects, such as a downtown skyline or mountain range, or island, resulting in a panoramic view corridor; or
- B. Lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

GROUND COVER

Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

LOT COVERAGE

Except as otherwise provided in § 125-67B(8), the footprint area of all structures and improvements calculated as a percentage of the area of the lot shall be considered to be lot coverage, including but not limited to principal and accessory buildings; all improved vehicular and pedestrian surfaces, such as parking lots, roads, driveways, maneuvering spaces, and pedestrian walkways, regardless of the construction material employed; graveled areas and other nonvegetated surfaces. Unimproved natural surfaces of a site shall not constitute lot coverage, regardless of whether they are vegetated. Boats stored in cradles above an unimproved natural surface shall not constitute lot coverage. However, in the case of lumber yards, areas of stored lumber shall constitute lot coverage.

PHOTO SIMULATION

A computer representation of the appearance of a building or scene showing how it currently looks or how it will look after specified activities (i.e., the construction of a building, renovations, landscaping, etc.) have occurred.

SCREENING

A hedge or buffer strip at least five feet wide consisting of densely planted shrubs or trees at least four feet in height at time of planting and eventually reaching a mature height of at least six feet in height, but not exceeding eight feet, which provides an effective visual barrier.

VEGETATION

All live trees, shrubs, and other plants, including, without limitation, trees both over and under four inches in diameter measured at 4 1/2 feet above ground level.

VISUAL IMPACT ASSESSMENT

An assessment of impacts to the viewshed from and to a proposed development. The assessment should accurately show the proposed project to scale within the visual context of the viewshed. There are six components of a visual impact assessment: defining the project setting and viewshed, identifying key views for visual assessment, analyzing existing visual character, a depiction of the visual appearance of project alternatives, an assessment of the visual impacts of project alternatives and a proposal for methods to mitigate adverse visual impacts.

STRUCTURE, ACCESSORY

- A. A structure which is:
- (1) Subordinate to and serves a principal structure or a principal use;
 - (2) Subordinate in area, extent and purpose to the principal structure or use served;
 - (3) Located on the same lot as the principal structure or use served, except as otherwise expressly authorized by the provisions of this chapter; and
 - (4) Customarily incidental to the principal structure or use.

- B. Any portion of a principal structure devoted or intended to be devoted to an accessory use is not an accessory structure.

USE, ACCESSORY

- A. A use which is:
- (1) Subordinate to and serves a principal use;
 - (2) Subordinate in area, extent and purpose to the principal use served;
 - (3) Located on the same lot as the principal use served, except as otherwise expressly authorized by this chapter; and
 - (4) Customarily incidental to the principal use.
- B. An accessory use shall not include any use injurious or offensive to the neighborhood as initially determined by the Code Enforcement Officer.
- C. Allowed off-street parking shall always be considered a permitted accessory use when required or provided to serve a permitted use in any district.
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